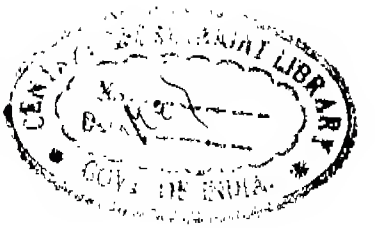
रजिस्ट्री सं० डी० एल०–33004/96 REGISTERED No. DL-33004/96

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं० 33] नई दिल्ली, बुद्धवार, दिसम्बर 11, 1996/अग्रहायण 20, 1918
No. 33] NEW DELHI, WEDNESDAY, DECEMBER 11, 1996 / AGRAHAYANA 20, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 11th December, 1996:—

BILL No. LVI OF 1996

A Bill to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. Short title.

2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in clause (*1*) of article 244 of the Constitution. Definition.

3. The provisions of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4. Extension of Part IX of the Constitution.

Exceptions and modifications to Part IX of the Constitution.

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:—

(*a*) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(*b*) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(*c*) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(*d*) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(*e*) every Gram Sabha shall—

(*i*) approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

(*ii*) be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(*f*) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (*e*);

(*g*) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution:

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats:

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(*h*) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(*i*) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

(*j*) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

(*k*) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

(*l*) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(*m*) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with—

(*i*) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

(*ii*) the ownership of minor forest produce;

(*iii*) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

(*iv*) the power to manage village markets by whatever name called;

(*v*) the power to exercise control over money lending to the Scheduled Tribes;

(*vi*) the power to exercise control over institutions and functionaries in all social sectors;

(*vii*) the power to control over local plans and resources for such plans including tribal sub-plans;

(*n*) the State legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(*o*) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance of existing laws and Panchayats.

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas immediately before the date on which this Act receives the assent of the President which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President:

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

STATEMENT OF OBJECTS AND REASONS

The Constitution (Seventy-third Amendment) Act, 1992 by which a new Part IX in the Constitution was added to enshrine therein certain basic and essential features of the Panchayati Raj Institutions to impart certainty, continuity and strength to them was brought into force on the 24th day of April, 1993. Article 243G of the Constitution provides that the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level with respect to the preparation of plans for economic development and social justice and the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule to the Constitution.

2. The bulk of tribal population lives in Scheduled Areas and Tribal Areas. In so far as the Scheduled and the Tribal Areas are concerned, sub-clause (b) of clause (4) of article 243M of the Constitution provides that Parliament may, by law, extend the provisions of Part IX to the Scheduled Areas and Tribal Areas referred to in clause (1) of that article subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of the Constitution for the purposes of article 368.

3. There have been persistent demands from prominent leaders of the Scheduled Areas for extending the provisions of Part IX of the Constitution to these Areas so that Panchayati Raj Institutions may be established there. Accordingly, it is proposed to introduce a Bill to provide for the extension of the provisions of Part IX of the Constitution relating to Panchayats to the Scheduled Areas with certain modifications providing that, among other things, the State legislations that may be made shall be inconsonance with the customary law, social and religious practices and traditional management practices of community resources; every village shall have a Gram Sabha which shall be competent to safeguard and preserve the traditions and customs of the people and shall be vested with the powers to approve the programmes and projects for social and economic development as also identification of beneficiaries under such programmes; Panchayats at the appropriate levels shall be endowed with ownership of minor forest produce; recommendation of the Gram Sabha or the Panchayat at the appropriate level shall be made mandatory prior to grant of prospecting licences or mining lease of minor minerals and shall be consulted before making acquisition of land in the Scheduled Areas for development projects or for resettlement of project affected members of the Scheduled Tribes; Panchayats at the appropriate level and the Gram Sabha shall have the power to prevent alienation of tribal lands and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe, have powers to regulate money lending to the members of the Scheduled Tribes, to manage village markets and to enforce prohibition or to regulate or restrict sale and consumption of any intoxicant; State legislations shall endow the Panchayats at the appropriate levels with specific powers and provide safeguards to prevent Panchayats at the higher level from assuming the powers and authority of Panchayats at the lower level or of the Gram Sabha; the offices of the Chairpersons in the Panchayats at all levels shall be reserved for the Scheduled Tribes; the reservation of seats at every Panchayat for the Scheduled Tribes shall not be less than one-half of the total number of seats.

4. The Bill seeks to achieve the aforesaid objectives.

KINJARAPU YERRANNAIDU.

V. S. RAMA DEVI,
Secretary-General.

Published by the Secretary-General, Rajya Sabha, under rule 68 of the Rules of Procedure and Conduct of Business in the Rajya Sabha.